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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,925	03/16/2004	Ronald A. Sowers	23612.00	9571

7590

11/21/2005

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EXAMINER

GELLNER, JEFFREY L

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/800,925

Applicant(s)

SOWERS, RONALD A.

Examiner

Jeffrey L. Gellner

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Yen Tseng (US 5,049,127).

As to claim 1, Yen Tseng discloses a Christmas tree watering system (Figs. 3-8; device capable of being a watering system) for supplying water to a water receptacle of a Christmas tree stand (4 of Fig. 1) supporting a Christmas tree, the system comprising a water reservoir (11 of Fig. 3) having a bottom outlet (shown in Fig. 3); means for securing (12 of Fig. 3) the water reservoir to the Christmas tree; a conduit (13 of Fig. 3) extending from the water reservoir to the water receptacle, the conduit having an upper end connected to the bottom outlet of the water reservoir (shown in Fig. 3) and a lower end (shown in Fig. 1); and, means for securing (28 and 29 of Fig. 8) the lower end of the conduit to the trunk of the Christmas tree (the device of Yen Tseng would function as claimed in claim 1 when the device is secured to a Christmas tree).

As to claim 4, Yen Seng further discloses a the means for securing to be a strip of hook and loop fastening material (28 and 29 of Fig. 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yen Tseng (US 5,049,127) in view of Sneider (US 4,254,769).

As to claim 2, the limitations of claim 2 are disclosed and described above. Not disclosed is a loop formed at the top of the reservoir and the means for securing the water reservoir being a hook extending from the loop. Sneider, however, discloses a watering device with a loop at the top (16 of Fig. 1) and a hook (18 of Fig. 1) extending from the loop. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the watering system of Yen Tseng by using the reservoir attaching means of Sneider so that the system is easily manipulated (see Sneider at col. 3 lines 35-40).

As to claim 3, the limitations of claim 1 are disclosed and described above. Not disclosed is a loop formed at the top of the reservoir and the means for securing the water reservoir being a strip of hook and loop material. Sneider, however, discloses a watering device with a loop at the top (16 of Fig. 1) and a hook (18 of Fig. 1) of wire extending from the loop. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the watering system of Yen Tseng by using the reservoir attaching means of Sneider so that the system is easily manipulated (see Sneider at col. 3 lines 35-40) and to use a strip of hook and loop material instead of wire depending upon availability of material.

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Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yen Tseng (US 5,049,127).

As to claim 5, the limitations of claim 1 are disclosed and described above. Not disclosed are the reservoir and conduit constructed of plastic. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Yen Tseng by making the system of plastic since it well known to make these type of systems of plastic for ease of cleaning, etc.

As to claim 6, the limitations of claim 1 are disclosed and described above. Not disclosed is the conduit rigid so as not to collapse. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Yen Tseng by making the conduit rigid so as not to collapse depending upon the available material.

Response to Arguments

Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection. Applicant's argument is that the reservoir is sealed with only a bottom outlet. Examiner has applied new art which meets the amended claim language. Examiner considers the devices of Yen Tseng and Sneider to be capable of being Christmas tree watering systems and for at least Yen Tseng to operate as claimed by Applicant when used as a Christmas tree watering system.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Morse, Kadar, and Bamford disclose in the prior art various watering systems capable of use with a Christmas tree which have only a bottom outlet.

Examiner has added the Brown reference to this action's 892 so that it is of record.

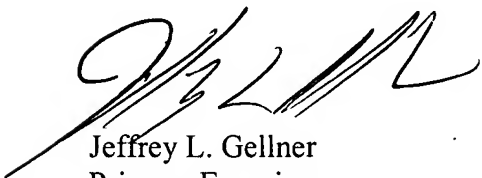
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00, alternate Fridays off, if attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. L. Gellner', is positioned above the printed name.

Jeffrey L. Gellner
Primary Examiner
Art Unit 3643